

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	5

MR. SPEAKER:

Your Committee on **Labor and Employment**, to which was referred House Bill 1461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 20-29-1-1, AS ADDED BY P.L.1-2005, SECTION
- 4 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 5 2009]: Sec. 1. The general assembly declares the following:
- 6 (1) The citizens of Indiana have a fundamental interest in the
- 7 development of harmonious and cooperative relationships
- 8 between school corporations and their ~~certificated~~ employees.
- 9 (2) Recognition by school employers of the right of school
- 10 employees to organize and acceptance of the principle and
- 11 procedure of collective bargaining **or discussion, or both,**
- 12 between school employers and school employee organizations can
- 13 alleviate various forms of strife and unrest.
- 14 (3) The state has a basic obligation to protect the public by
- 15 attempting to prevent any material interference with the normal
- 16 public school educational process.

(4) The relationship between school corporation employers and ~~certificated~~ school employees is not comparable to the relationship between private employers and employees for the following reasons:

(A) A public school corporation is not operated for profit but to ensure the citizens of Indiana rights guaranteed them by the Constitution of the State of Indiana.

(B) The obligation to educate children and the methods by which the education is effected will change rapidly with:

(i) increasing technology;

(ii) the needs of an advancing civilization; and

(iii) requirements for substantial educational innovation.

(C) The general assembly has delegated the discretion to carry out this changing and innovative educational function to the governing bodies of school corporations, composed of citizens elected or appointed under applicable law, a delegation that these bodies may not and should not bargain away.

(D) Public school corporations have different obligations concerning ~~certificated~~ school employees under constitutional and statutory requirements than private employers have to their employees.

SECTION 2. IC 20-29-2-13, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. "School employee" means a full-time certificated person in the employment of the school employer **or a noncertificated person in the employment of the school employer.** A school employee is considered full time even though the employee does not work during school vacation periods and accordingly works less than a full year. The term does not include:

(1) supervisors;

(2) confidential employees; **and**

(3) employees performing security work. ~~and~~

~~(4) noncertificated employees.~~

SECTION 3. IC 20-29-6-1, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** School employers and **certificated** school employees shall:

(1) have the obligation and the right to bargain collectively the

1 items set forth in section 4 of this chapter;

2 (2) have the right and obligation to discuss any item set forth in
3 section 7 of this chapter; and

4 (3) enter into a contract embodying any of the matters on which
5 they have bargained collectively.

6 **(b) School employers and noncertificated school employees:**

7 **(1) shall have the right and obligation to discuss any item set**
8 **forth in section 7(d) of this chapter; and**

9 **(2) may (but are not required to):**

10 **(A) bargain collectively;**

11 **(B) negotiate;**

12 **(C) be subject to or enter into impasse procedures; or**

13 **(D) enter into a written contract.**

14 SECTION 4. IC 20-29-6-4, AS ADDED BY P.L.1-2005, SECTION
15 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
16 2009]: Sec. 4. A school employer shall bargain collectively with the
17 exclusive representative **of certificated employees** on the following:

18 (1) Salary.

19 (2) Wages.

20 (3) Hours.

21 (4) Salary and wage related fringe benefits, including accident,
22 sickness, health, dental, or other benefits under IC 20-26-5-4 that
23 were subjects of bargaining on July 1, 2001.

24 SECTION 5. IC 20-29-6-7, AS ADDED BY P.L.1-2005, SECTION
25 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
26 2009]: Sec. 7. (a) A school employer shall discuss with the exclusive
27 representative of certificated employees the items listed in subsection
28 (b).

29 (b) A school employer may but is not required to bargain
30 collectively, negotiate, or enter into a written contract concerning, be
31 subject to, or enter into impasse procedures on the following matters:

32 (1) Working conditions, other than those provided in section 4 of
33 this chapter.

34 (2) Curriculum development and revision.

35 (3) Textbook selection.

36 (4) Teaching methods.

37 (5) Hiring, promotion, demotion, transfer, assignment, and
38 retention of certificated employees, and changes to any of the

- 1 requirements set forth in IC 20-28-6 through IC 20-28-8.
 2 (6) Student discipline.
 3 (7) Expulsion or supervision of students.
 4 (8) Pupil/teacher ratio.
 5 (9) Class size or budget appropriations.
 6 (c) Items included in the 1972-1973 agreements between an
 7 employer school corporation and the school employee organization
 8 continue to be bargainable.
 9 **(d) A school employer shall discuss with the exclusive**
 10 **representative of noncertificated employees and may (but is not**
 11 **required to) bargain collectively, negotiate, be subject to or enter**
 12 **into impasse procedures, or enter into a written contract**
 13 **concerning the following matters:**
 14 **(1) Salary, wages, hours, and wage-related fringe benefits.**
 15 **(2) Working conditions.**
 16 **(3) Procedures for selection, assignment, promotion, or**
 17 **discipline of personnel.**
 18 **(4) Procedures for student discipline.**
 19 **(e) Any items included in the 2004-2005 or subsequent**
 20 **agreement between an employer school corporation and employee**
 21 **organization of noncertificated employees continue to be**
 22 **bargainable.**
 23 **SECTION 6. [EFFECTIVE JULY 1, 2009] (a) This act does not:**
 24 **(1) apply to or abrogate a collective bargaining agreement or**
 25 **memorandum of understanding; or**
 26 **(2) preclude arbitration on a provision in a collective**
 27 **bargaining agreement or memorandum of understanding;**
 28 **in effect on June 30, 2009.**
 29 **(b) This SECTION expires December 31, 2011.**
 (Reference is to HB 1461 as introduced.)

and when so amended that said bill do pass.

Representative Niezgodski